



PTO/SB/21 (09-04)

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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

-8-

Application Number 10/656,040

Filing Date September 04, 2005

First Named Inventor Stephen V. Deckers

Art Unit 3651

Examiner Name Khoi H. Tran

Attorney Docket Number 10004377-3

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Return Receipt Post Card
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks This application is currently under appeal		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	Thomas Olson		
Date	June 13, 2005	Reg. No.	44,271

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Thomas Olson	Date	June 13, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Signature: Thomas Olson

PATENT APPLICATION
Docket No.: 10004377-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Inventor(s): Stephen V. Deckers
Serial No.: 10/656,040
Filed: September 04, 2003
Title: DISK CARTRIDGE DATA STORAGE METHODS AND APPARATUS
Art Unit: 3651
Examiner: Khoi H. Tran
Confirmation No.: 8460

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO THE COMMISSIONER

SIR OR MADAM:

This communication is a Petition to the Commissioner for the action as set forth in detail hereinbelow. This petition is being filed under the provisions of 37 C.F.R. § 1.181.

(Continued on next page.)

06/16/2005 EFLORES 00000053 082025 10656040
01 FC:1462 400.00 DA

Docket No. 10004377-3
Petition to the Commissioner

1. Petition to the Commissioner:

The Applicant hereby petitions the Commissioner to withdraw an objection to the drawings, or in the alternative, to compel the Examiner to identify, by name, the specific structural details described in the specification which are allegedly not shown in the drawings.

2. Statement of the Facts:

(a) The subject application, S/N 10/656,040, is a divisional application of its parent application, S/N 09/924,201.

(b) The drawings filed with the subject application are the same drawings that were filed with the parent application. The drawings consist of four (4) schematic figures that are numbered 1 through 4.

(c) No objections to the drawings were made during the pendency (i.e. prosecution) of the parent application.

(d) The parent application issued as U.S. Patent No. 6,650,961 on Nov. 18, 2003, and the patent includes the drawings as originally filed.

(e) A non-final action was mailed in regard to the subject application (S/N 10/656,040) on July 26, 2004, in which no objections to the drawings were made, and in which one or more claim rejections were made.

(f) A final action was mailed in regard to the subject application (S/N 10/656,040) on November 23, 2004, in which the claim rejections were maintained, and in which an objection to Figure 4 of the drawings was made under 37 CFR 1.83(a). In making the objection to the drawing, the Examiner stated, "*Figure 4 is objected to under 37 CFR 1.83(a) because it fails to show how the integrated docking device 330 can actually accept both tape and HDD media without encountering any interference by element 122. Figure 4 also fails to show, in structural detail how the docking device 330 can actually accept and read both tape and HDD media. Elements 122 and 231 do not provide sufficient structure for one of ordinary skill in the art to ascertain the physical makeup of the integrated docking device.*" The Examiner provides no other input as to why Figure 4 of the drawings does not meet the requirements of 37 CFR 1.83(a).

(g) The Applicant filed, on January 21, 2005, a reply to the final action of Nov. 23, 2004, in which the claim rejections and the drawing objection were traversed. In the reply to the final action, the Applicant provided detailed reasoning in support of the traverse of the drawing objection.

(h) An Advisory Action was mailed on February 04, 2005, in which was contained the only the following remarks: *"The reply filed 24 January 2005 fails to place this application in condition for allowance. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: 1) a timely filed amendment which places the application in condition for allowance; 2) a timely filed Notice of Appeal (with appeal fee); or 3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114."*

(i) A Notice Of Appeal (in response to the Advisory Action of February 04, 2005) was filed on February 23, 2005, and an Appeal Brief was filed on April 23, 2005, in which Appeal Brief the objection to the drawings was appealed.

(j) An Examiner's Answer (in response to the Appeal Brief of April 23, 2005) was mailed on May 4, 2005, in which was noted that the drawing objection relates to petitionable subject matter and not to appealable subject matter.

3. Points to be Reviewed:

The Applicant submits that the points to be reviewed are:

(a) Whether Figure 4 of the drawings of the subject application is in compliance with the requirements of 37 CFR 1.83(a); and,

(b) Whether the Examiner is required to identify, by name, the specific structural details described in the specification which are allegedly not shown in the drawings, in accordance with the requirements and/or guidelines of MPEP 608.02.

4. Action Requested:

The Applicant respectfully requests that the following action be taken:

(a) Withdraw the objection to the drawings, and accept the drawings in their current form;

OR, in the alternative:

(b) Compel the Examiner to identify, by name, the specific structural details described in the specification that are allegedly not shown in the drawings.

5. Memoranda in Support of Action Requested:

The Examiner has objected to Figure 4 of the Applicant's drawings under 37 CFR 1.83(a). The Applicant asserts that the drawings are in compliance with the requirements of 37 CFR 1.83(a), and/or that the Examiner has not identified the specific structural details described in the specification which are not shown in the drawings, in accordance with MPEP 608.02. The Applicant contends that the objection should, therefore, be withdrawn, or in the alternative, that the Examiner should identify, by name, the specific structural details described in the specification which are not shown in the drawings.

The Applicant notes that 37 CFR 1.83(a) reads, in total, as follows:

The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g. a labeled rectangular box).

The Applicant notes further that the MPEP requires the following notice be provided to the Applicant when a drawing is objected to under 37 CFR 1.83(a):

The drawings are objected to under 37 CFR 1.83(a) because they fail to show [1] as described in the specification.... In bracket 1, identify the structural details not shown in the drawings. (See MPEP 608.02, relating to ¶ 6.22.01.)

The Applicant contends that the drawings comply with the requirements of 37 CFR 1.83(a) because every feature of the invention specified in the claims is shown in the drawings, as is required by 37 CFR 1.83(a). The Applicant asserts further that detailed illustration of the various elements is not essential for a proper understanding of the invention. Specifically, the Applicant asserts that one of ordinary skill in the art would understand that a typical tape cartridge is configured such that a tape leader is automatically extracted from a corner of the tape cartridge and pulled onto a reel provided as a portion of a tape drive assembly, and that such a configuration would not

result in interference with element 122. The Applicant contends that one of ordinary skill in the art could build and/or use the claimed device from a study of the specification and the drawings as filed.

In the alternative, the Applicant respectfully requests that the Examiner complies with the requirements of MPEP 608.02 by identifying the specific structural details as described in the specification, which are allegedly not shown in the drawings.

The Examiner stated the following in the final action with respect to the drawing objection:

Figure 4 is objected to under 37 CFR 1.83(a) because it fails to show how the integrated docking device 330 can actually accept both tape and HDD media without encountering any interference by element 122. Figure 4 also fails to show, in structural detail how the docking device 330 can actually accept and read both tape and HDD media. Elements 122 and 231 do not provide sufficient structure for one of ordinary skill in the art to ascertain the physical makeup of the integrated docking device.

The Applicant respectfully asserts that these statements do not comply with the requirements of MPEP 608.02 because the Examiner has not specifically identified the structural details not shown in the drawings as described in the specification. Moreover, the Applicant asserts that no one could reasonably determine from the Examiner's statements what changes need to be made to the drawings because the Examiner's statements do not identify the specific structural details described in the specification which are allegedly not shown in the drawings.

6. Time for Filing Petition:

The Applicant asserts that this petition is timely filed. The MPEP specifies that a petition should be filed within two months of the Examiner's action, if adverse, on the Applicant's request for reconsideration of the objection. (See MPEP 1002.) The Applicant made a request for reconsideration in the Applicant's reply to the final action. However, the Examiner never made a specific adverse action on the Applicant's request.

The Applicant contends that the two-month period for filing a petition has therefore not begun. In the alternative, the Applicant asserts that the two-month period

for filing a petition began with the mailing of the Examiner's Answer, which date is May 04, 2005.

7. Fee:

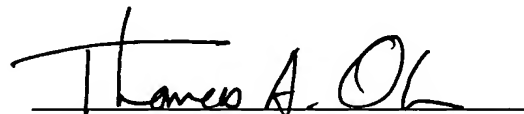
Please charge the Assignee's deposit account no. 08-2025 for the amount of the fee for this petition as set forth in the attached Transmittal Letter.

8. Summary:

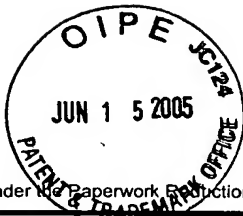
The Applicant considers this Petition to be timely and in proper form and respectfully requests the action on the part of the Commissioner as indicated herein above.

Dated this 13th day of June, 2005.

Respectfully submitted,
Stephen V. Deckers (Applicant)



Thomas A. Olson
Attorney and Agent for Applicant
Registration No. 44,271
Telephone: (509) 327-4748



PTO/SB/17p (11-04)

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PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/656,040
Filing Date	September 04, 2003
First Named Inventor	Stephen V. Deckers
Art Unit	3651
Examiner Name	Khoi H. Tran
Attorney Docket Number	10004377-3

Enclosed is a petition filed under 37 CFR 1.17(f) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$400 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 08-2025:

☒ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$_____ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

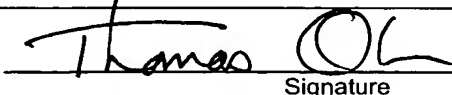
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.


Signature

Thomas Olson

Typed or printed name

June 13, 2005
Date

44,271

Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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